

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

VIRGINIA L. GIUFFRE,

Plaintiff,

v.

21 CV 6702 (LAK)

PRINCE ANDREW, Duke of York,  
in his personal capacity, also  
known as Andrew Albert  
Christian Edward,

Defendant.

Conference  
(via Microsoft Teams)

New York, N.Y.  
November 3, 2021  
11:00 a.m.

Before:

HON. LEWIS A. KAPLAN,

District Judge

APPEARANCES

BOIES SCHILLER FLEXNER LLP  
Attorneys for Plaintiff  
BY: DAVID BOIES  
SIGRID S. McCAWLEY  
ANDREW VILLACASTIN

LAVELY & SINGER  
Attorneys for Defendant  
BY: ANDREW B. BRETTLER  
MELISSA Y. LERNER

1 (Case called)

2 THE COURT: Good morning, everyone.

3 Listen. I appreciate the fact that counsel were able  
4 to agree to the scheduling order, but I think there are some  
5 other discovery-related matters that probably warrant earlier  
6 attention than later. That's mainly what I want to accomplish  
7 this morning.

8 What do you anticipate in terms of numbers of  
9 depositions and identities? We will start with Mr. Boies.

10 MR. BOIES: Your Honor, I think that we would have in  
11 the neighborhood of eight to 12 depositions. The number  
12 depends a little bit on who we can get and the timing of it,  
13 but I would think it would be in the range of eight to 12.

14 THE COURT: Mr. Brettler.

15 MR. BRETTLER: That sounds about right to me, your  
16 Honor. Eight to 12 depositions seems like the ballpark number.

17 THE COURT: Eight to 12 each or eight to 12 overall?

18 MR. BRETTLER: I can picture eight to 12 on our side.

19 MR. BOIES: I had meant each, your Honor, as well.

20 THE COURT: Do you know yet who the core of people is  
21 on either side, Mr. Boies?

22 MR. BOIES: Certainly, obviously, the parties. In  
23 addition, there are a number of potential witnesses. I can't  
24 identify them right now because I am not sure who we are going  
25 to be able to get. That investigation is ongoing. But I think

1 we would be prepared to start some of the depositions  
2 relatively promptly. But some of the ones we may not identify  
3 for another two months, as much as two months.

4 THE COURT: Mr. Brettler.

5 MR. BRETTLER: I agree. Obviously, the parties --  
6 there will be a number of third-party depositions.

7 I will note for the Court that a new lawsuit has been  
8 filed against the plaintiff in this case that's pending before  
9 Judge Buchwald and that case also will probably, I would say,  
10 touch on similar issues, and there may be witnesses related to  
11 this new matter that would need to be deposed in this matter.

12 THE COURT: Does either of you anticipate a need for a  
13 letters rogatory?

14 MR. BOIES: There are two people in the United Kingdom  
15 where there might be a necessity for a letters rogatory. I  
16 think we may be able to get them to appear voluntarily. But  
17 it's possible. We ought to know that within the next two or  
18 three weeks.

19 THE COURT: Thank you.

20 Mr. Brettler, what about you?

21 MR. BRETTLER: I don't anticipate it, your Honor, but  
22 I am not ruling out the possibility.

23 THE COURT: Given the fact that it sometimes takes a  
24 lot of time to get that accomplished, I am contemplating  
25 putting a deadline for asking me to do it on.

1           What is your reaction to that? I'll take Mr. Boies  
2 first, the plaintiff.

3           MR. BRETTLER: I think that's appropriate, your Honor.

4           THE COURT: Mr. Brettler.

5           MR. BRETTLER: We concur.

6           THE COURT: Can you live with the middle of December  
7 for that?

8           MR. BOIES: Absolutely, your Honor.

9           MR. BRETTLER: Yes, your Honor.

10          THE COURT: I'll put that in an order. It will be on  
11 or about December 15.

12          Is there going to be any need to expand the number of  
13 interrogatories and requests for admission inasmuch as they  
14 usually are a waste of time, in my experience, anyway?

15          MR. BOIES: I don't think that we need to expand it,  
16 your Honor. I agree with you that it tends to make more work  
17 for the lawyers than it does accomplish.

18          THE COURT: Not to mention the judges.

19          MR. BOIES: I think we can live with the number.

20          THE COURT: Mr. Brettler.

21          MR. BRETTLER: Yes, your Honor. In fact, opposing  
22 counsel and my colleague, Melissa Lerner, and I met and  
23 conferred about this. I think we are in general agreement that  
24 we don't need to expand the number of interrogatories.

25          THE COURT: Is anybody going to put foreign law in

1 issue?

2 MR. BOIES: I don't believe so, your Honor.

3 MR. BRETTLER: We don't believe so either.

4 THE COURT: How about the December 15, or thereabouts,  
5 deadline on Rule 44.1 notices?

6 MR. BOIES: That would be fine with us, your Honor.

7 MR. BRETTLER: Same.

8 THE COURT: Well, in another era, prepandemic era, I  
9 would probably set a trial date today. But I imagine you are  
10 aware of the difficulty of getting juries. Not actually of  
11 getting juries. That hasn't been a problem. But accommodating  
12 juries safely. So I can't give you a trial date today unless  
13 everyone is prepared to waive a jury. But I can say that I  
14 would anticipate somewhere in the September to December period  
15 of next year.

16 We, nowadays, in order to accommodate juries safely,  
17 put in requests for juries toward the end of the preceding  
18 quarter, and then we find out what can be accommodated and what  
19 can't. So I will look at the possibility of September, but, in  
20 any case, October through December as being the target here.

21 Anything else we can usefully accomplish this morning?

22 MR. BOIES: Not from us, your Honor.

23 As Mr. Brettler noted, we had our Rule 26 conference  
24 last Friday. We agreed on a briefing schedule, subject to the  
25 Court's order for the motion to dismiss, as well as initial

1 disclosures. So I think we are moving things along.

2 THE COURT: What is the briefing schedule you've  
3 agreed with respect to the motions?

4 MR. BOIES: This is obviously subject to the Court's  
5 view, but what we had proposed among ourselves was that we  
6 would respond on November 29 and they would reply on December  
7 13.

8 THE COURT: I have no reason to quarrel with those  
9 dates.

10 MR. BOIES: We also agreed on our initial disclosures  
11 for November 12.

12 THE COURT: Mr. Brettler, were you saying something?

13 MR. BRETTLER: I was just going to say, we hadn't  
14 agreed on a briefing schedule. I think Mr. Boies misspoke.  
15 They proposed it. I said we would have no objection to the  
16 Court setting that briefing schedule. Certainly not within my  
17 ability to set it for the Court.

18 THE COURT: No, no. I appreciate that.

19 The Court has now set it.

20 MR. BRETTLER: Thank you, your Honor.

21 THE COURT: Anything else?

22 MR. BOIES: Not from us, your Honor.

23 THE COURT: Thank you very much.

24 (Adjourned)

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